

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HARRY B. AZURE,

Defendant.

CR 20-58-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant Harry B. Azure (Azure) has been accused of violating the conditions of his supervised release. (Doc. 171) Azure admitted to some of the alleged violations. Azure's supervised release should be revoked. Azure should be sentenced to custody until noon on December 13, 2024, with 32 months of supervised release to follow. Upon completion of his custody, Azure's shall be subject to home confinement until June 13, 2025, as an additional condition of his supervised release.

II. Status

Azure pled guilty on October 15, 2021, to the offense of Assault Resulting in Serious Bodily Injury, in violation of 18 U.S.C. § § 113(a)(6), 1153(a) as charged in

Count 1 of the Superseding Indictment. (Doc. 109) Azure was sentenced to 32 months of custody, with 3 years of supervised release to follow. (Doc. 146) Azure's current term of supervised release began on February 17, 2023.

Petition

On August 28, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Azure's supervised release. (Doc. 171) The Petition alleged Azure violated conditions of his supervised release by: (1) failing to follow the instructions of his probation officer on December 19, 2023, by failing to remain at home for a home visit on December 20, 2024; (2) failing to follow the instructions of his probation officer on December 20, 2023, instructing him to report to the probation office on December 21, 2023; (3) failing to comply with substance abuse testing requirements on June 25, 2024; (4) failing to report for his scheduled substance abuse treatment session on June 25, 2024; (5) failing to report for substance abuse testing on August 13, 2024; (6) failing to report for his scheduled substance abuse treatment session on August 13, 2024; (7) failing to notify his probation officer about a change in his employment within 72 hours; (8) failing to report for substance abuse testing on August 27, 2024; (9) being terminated from his outpatient substance abuse treatment on August 27, 2024; (10) failing to comply with his violent offender registration requirements since December 23, 2023, to the present; (11) failing to make restitution payments for the months of March, April,

May, July, September, October and December of 2023 and for the months of March, April, May, July and August of 2024; and (12) failing to follow the instructions of his probation officer by failing to complete monthly supervision reports for 17 out of the 18 months he's been under supervision.

Amended Petition

On October 11, 2024, the United States Probation Office filed an Amended Petition requesting that the Court revoke Azure's supervised release. (Doc. 174) The Amended Petition alleged Azure had additionally violated his supervised release by: (13) committing another federal, state, or local crime on June 17, 2024, by being charged with the offense of Simple assault, a misdemeanor, in violation of Fort Peck Tribal Coe, Title 7, § 23.

Initial Appearance

Azure appeared before the Court on October 15, 2024. Azure was represented by counsel. Azure stated that he had read the Amended Petition and that he understood the allegations against him. Azure waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

Azure appeared before the Court on October 15, 2024. Azure admitted that he had violated the conditions of supervised release as set forth in the Amended

Petition by: (3) failing to comply with substance abuse testing requirements on June 25, 2024; (4) failing to report for his scheduled substance abuse treatment session on June 25, 2024; (5) failing to report for substance abuse testing on August 13, 2024; (6) failing to report for his scheduled substance abuse treatment session on August 13, 2024; 8) failing to report for substance abuse testing on August 27, 2024; (9) being terminated from his outpatient substance abuse treatment on August 27, 2024; and (11) failing to make restitution payments for the months of March, April, May, July, September, October and December of 2023 and for the months of March, April, May, July and August of 2024. Azure denied allegations (1) failing to follow the instructions of his probation officer on December 19, 2023 by failing to remain at home for a home visit on December 20, 2023; (2) failing to follow the instructions of his probation officer on December 20, 2023, instructing him to report to the probation office on December 21, 2023; (7) failing to notify his probation officer about a change in his employment within 72 hours; (10) failing to comply with his violent offender registration requirements since December 23, 2023, to the present; (12) failing to follow the instructions of his probation officer by failing to complete monthly supervision reports for 17 out of the 18 months he's been under supervision and (13) committing another federal, state, or local crime on June 17, 2024, by being charged with the offense of Simple assault, a misdemeanor, in violation of Fort Peck Tribal Code, Title 7, § 23. The Government moved to dismiss allegations 1, 2, and

13, which the Court granted. The Court then heard testimony from United States Probation Officer AnnaLiesa Fauth regarding violations 7, 10, and 12. Based upon such testimony, the Court determined that the Government had met its burden of proof regarding allegations 7, 10, and 12. Azure's violations, both admitted and proven, are serious and warrant revocation of his supervised release.

Sentencing hearing

Azure appeared before the Court on October 15, 2024. Azure's violations are a Grade C. His criminal history category is II. Azure's underlying offense is a Class C felony. Azure could be incarcerated for up to 24 months. Azure could be ordered to remain on supervised release for 36 months less any custody time. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

III. Analysis

Azure's supervised release should be revoked. Azure should be sentenced to custody until noon on December 13, 2024, with 32 months of supervised release to follow. Upon completion of his custody, Azure's shall be subject to home confinement until June 13, 2025, as an additional condition of his supervised release. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Azure that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed

Azure of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Azure that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS:**

That HARRY B. AZURE has violated the conditions of his supervised release by: (3) failing to comply with substance abuse testing requirements on June 25, 2024; (4) failing to report for his scheduled substance abuse treatment session on June 25, 2024; (5) failing to report for substance abuse testing on August 13, 2024; (6) failing to report for his scheduled substance abuse treatment session on August 13, 2024; (7) failing to notify his probation officer about a change in his employment within 72 hours; (8) failing to report for substance abuse testing on August 27, 2024; (9) being terminated from his outpatient substance abuse treatment on August 27, 2024; (10) failing to comply with his violent offender registration requirements since December 23, 2023 to the present; (11) failing to make restitution payments for the months of March, April, May, July, September, October and December of 2023 and for the months of March, April, May, July and August of 2024; and (12) failing to follow the instructions of his probation officer by failing to complete monthly supervision reports for 17 out of the 18 months he's been under supervision.

The Court **RECOMMENDS:**

That the District Court revoke Azure's supervised release and sentence Azure custody until noon on December 13, 2024, with 32 months of supervised release to follow. Upon completion of his custody, Azure's shall be subject to home confinement until June 13, 2025, as an additional condition of his supervised release.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocute before a district court judge.

DATED this 16th day of October 2024.



John Johnston
United States Magistrate Judge